

2020 Zoning Cleanup – January 7, 2021

Exhibit 4

Frequently Asked Questions – Appeals, Referrals and Approving/Appeal Authority
(Chapters 19.650, 19.680, 19.800, 19.810 and 19.820)

1. Why are these changes proposed?

Each year, the Planning Division completes a “clean-up” of Title 19 based on modifications identified as staff implements the Code. For this particular amendment, the language in the Zoning Code was unclear as it related to the Mayor’s ability to refer a project. While it was implied that the Mayor could refer an item, this change was made to make it clear as part of the Division’s yearly clean-up.

2. What is the difference between a referral and an appeal?

Any person aggrieved by an action by the CEDD Director, DRC, or Planning Commission has a due process right to appeal that decision to a higher authority, up to and including the City Council. This requires that the person pay a fee (to cover Staff time and resources involved in preparing materials and processing the appeal) and state the basis for the appeal, which is then evaluated by the appropriate appeal authority to determine whether the appealed action was made properly.

By contrast, the elected policymakers of the City may believe that a particular outcome warrants additional public discussion or is of particular significance to a Ward or the City as a whole. In these situations, a Council member or the Mayor may refer the item for consideration before the full City Council, which may then ratify, modify, return or overrule the action of the lower body.

3. When was the referral process for City Council members introduced into the Code?

Prior to 2016, the Code established a referral process for a limited number of actions by the Zoning Administrator. As part of the 2016 Streamline Riverside initiative, changes to permitting procedures were made to improve the development process and support economic development. At this time, the Zoning Administrator approvals were replaced by the CEDD Director approvals.

While the process changes streamlined certain cases, the referral process was also modified to reflect these changes. Specifically, the referral process was modified so that decisions of the CEDD Director, DRC or Planning Commission could be referred. The Streamline Riverside initiative and related Code amendments were approved by the Planning Commission in March 2016 and by City Council in December 2016.

4. What changes are proposed to the referral procedures?

For the referral procedure, the term Mayor is added, for clarification, as it relates to referring actions of the CEDD Director, DRC or Planning Commission. Currently, the language states “City Council” which implies the Mayor but is not explicit. Other proposed changes simply clarify the process by which this occurs.

5. What changes are proposed to the appeal procedures?

The proposed changes to the appeal procedures clarify the differences between a City-initiated and Applicant-initiated proposals for legislative actions, such as General Plan amendments, specific plan amendments and rezoning.

Currently, the Planning Commission's action is final for Applicant-initiated proposals, which can be appealed to the City Council. City-initiated proposals require a recommendation of the Planning Commission with City Council's action being final. The new language clarifies this process.

All other amendments to the appeal procedures are intended to clarify the established process.

6. What new or modified Approving/Appeal Authorities in Table 19.650.020 are proposed?

Proposed changes to this table establish the Planning Commission as the appeal authority on certain items approved by the CEDD Director or DRC. Currently, these appeals (minor conditional use permits, variances, and nonconforming status determinations), when appealed, bypass Planning Commission and go directly to City Council. This is the result of an oversight dating to the original Streamline Riverside initiative, when processes were modified, but the table changes were not modified to match the new process. The proposed changes will correct this.

7. How frequently are items referred by the City Council or Mayor?

Referrals initiated by the Mayor and City Council since 2018 include: one DRC action and two Planning Commission actions.